IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1099 OF 2007

Narayan Ganpatrao Nagose :: PETITIONER

-: Versus :-

Maharashtra Rajya Jangal Sahakari Sangh Ltd. and another :: RESPONDENTS

CORAM : **A. B. Chaudhari, J.**
DATE : **23rd July, 2007**

P.C. :

1. Heard Mrs. B. P. Maldhure, learned Counsel for the petitioner, Assistant Government Pleader for respondent No. 1 and Mr. S. K. Tambde, learned Counsel for respondent No. 2.

2. The appellate judgment passed by the Co-operative appellate Court-respondent No. 2 allowing the appeal filed by respondent No. 1 is under challenge in this writ petition. Learned Counsel for the petitioner vehemently argued that the appellate Court could not have interfered with the order which

was made by the Co-operative Court directing the employer to make payment of the salary. It is submitted that the petitioner has to receive the amount more than Rs. 8 lac towards the salary from the employer. The Co-operative Court has considered the claim of the petitioner and made interim order granting salary to him. According to her the judgment and order passed by the appellate Co-operative Court is not legal and proper.

3. Per contra, the learned Counsel for respondent No.1 argued that direction to make payment of salary without deciding the dispute pending before the Co-operative Court amounts to grant of final award without deciding the dispute on merit. Therefore, according to him the appellate Co-operative Court has rightly set aside the interim order. He then submits that there is dispute about entitlement of the petitioner.

4. Learned Assistant Government Pleader appearing for respondent No. 2 supported the impugned order.

5. Having considered the submissions made by the learned Counsel for the rival parties and on going through the record and impugned order, I find that the petitioner has made claim

for the salary before the Co-operative Court and the Co-operative Court will have to find out the entitlement of the petitioner. In absence of any oral as well as documentary evidence which will be tendered in the trial, I do not think that the appellate Court has committed any error in interfering with the order made by the Co-operative Court issuing direction to make payment of salary to the petitioner. However, the Co-operative Court, in the interest of justice, deserves to be directed to decide the dispute itself within a stipulated period to sort out the controversy in the matter. Hence, the impugned order made by the Co-operative appellate Court-respondent No. 2 is maintained. However, the Co-operative Court shall decide the dispute itself within a period of six months from the date of receipt of the writ of this Court.

6. Writ petition stands disposed of accordingly with no order as to costs.

JUDGE

WWL